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Subject: Desk Statement Needed: Next Week's LULAC Hearing

Desk Statement for March 2019

On February 6, 2019, the U.S. Court of Appeals for the Ninth Circuit ordered that LULAC v. Wheeler be heard en banc (<http://cdn.ca9.uscourts.gov/datastore/opinions/2019/02/06/17-71636.pdf>), and on March 26 the court will hear oral arguments. EPA is pleased that the court agreed to rehear the case.

In the interim, federal chlorpyrifos tolerances and registrations will remain in place; and use according to label instructions can continue, as permitted by state law.

Background:

EPA concluded that the science addressing neurodevelopmental effects of chlorpyrifos remains unresolved despite several years of study, and further evaluation of the science during the remaining time for completion of registration review is warranted. We will continue to review the science addressing neurodevelopmental effects of chlorpyrifos.

On March 29, 2017, EPA issued an order denying a petition requesting that EPA revoke all tolerances for the pesticide chlorpyrifos under section 408(d) of the Federal Food, Drug, and Cosmetic Act and cancel all chlorpyrifos registrations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The petition was filed in September 2007 by the Pesticide Action Network North America and the Natural Resources Defense Council. [Read the Federal Register notice announcing our response to the petition.](#)

On August 9, 2018, the U.S. Ninth Circuit Court of Appeals ordered EPA to revoke the tolerances and cancel all registrations for chlorpyrifos within 60 days of the issuance the Court's mandate. The following month, the Department of Justice requested a rehearing and, as noted above, on February 6, 2019, the Court agreed to rehear the case *en banc*. As a result, the original panel's decision will be replaced by the decision of the *en banc* panel following the March 26 oral argument.